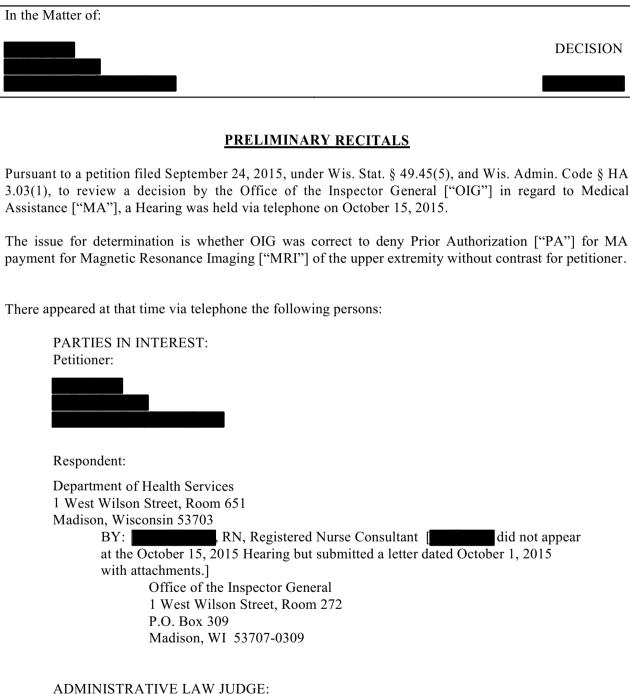


# STATE OF WISCONSIN **Division of Hearings and Appeals**



Sean P. Maloney

Division of Hearings and Appeals

### **FINDINGS OF FACT**

- 1. Petitioner (70 years old) is a resident of Milwaukee County, Wisconsin.
- 2. Petitioner has suspected osteoarthritis, rheumatoid arthritis, or inflammatory arthritis in her right shoulder.
- Petitioner's provider, Anatoliy Velikodanov of Milwaukee, Wisconsin, requested PA (P.A. # MedSolutions file # MedSolutions file # Without contrast for petitioner.
- 4. OIG denied PA # for MA coverage of an MRI of the upper extremity without contrast for petitioner; OIG sent a letter to petitioner dated September 14, 2015 and entitled BadgerCare Plus Notice of Appeal Rights informing her of the denial.

#### **DISCUSSION**

As with any eligibility denial, the burden is on petitioner to show that she is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to make such a showing.

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code § DHS 107.01(1) (August 2015); See also, Wis. Stat. §§ 49.46(2) & 49.47(6) (2013-14). In order for a service to be *medically necessary* it must meet several specific requirements. See, Wis. Admin. Code § DHS 101.03(96m) (December 2008).

In determining whether to approve or disapprove a request for PA the limitations imposed by pertinent federal or state statutes, rules, regulations, or interpretations must be considered. Wis. Admin. Code § DHS 107.02(3)(e)9. (August 2015). Written state policy limitations provide that MedSolutions, a private radiology benefits manager, is authorized to administer PA MRI's. MedSolutions uses approved national clinical guidelines for imaging services when making PA determinations. *ForwardHealth Update* October 2010 No. 2010-92. Those national clinical guidelines require that an MRI cannot be approved unless there has been a failure of a recent (within 3 months) 6-week trial of a physician-directed treatment and/or observation. MedSolutions *Spine Imaging Guidelines* SP-3 & SP-6. There is no evidence in the record of this matter that petitioner has failed a recent (within 3 months) 6-week trial of a physician-directed treatment and/or observation. Therefore, OIG's denial must be sustained.

#### **CONCLUSIONS OF LAW**

For the reasons discussed above, OIG was correct to deny PA for MA payment for an MRI of the upper extremity without contrast for petitioner.

### NOW, THEREFORE, it is

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There is an exception to this require if certain "Red Flag Indications" are present such as: motor weakness; aortic aneurysm or dissection; cancer; cauda equine syndrome; fracture; or, infection. MedSolutions *Spine Imaging Guidelines* SP-1.2. There is no evidence in the record of this matter that petitioner has any of those Red Flag Indications.

### **ORDERED**

That the petition for review herein be and the same is hereby DISMISSED

### REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received** within 20 days after the date of this decision. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

#### APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison, Wisconsin, this 19th day of October October, 2015 2015

\sSean P. Maloney Administrative Law Judge Division of Hearings and Appeals



## State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator Suite 201 5005 University Avenue Madison, WI 53705-5400 Telephone: (608) 266-3096 FAX: (608) 264-9885 email: DHAmail@wisconsin.gov Internet: http://dha.state.wi.us

The preceding decision was sent to the following parties on October 19, 2015.

Division of Health Care Access and Accountability